

REMARKS/ARGUMENTS

Applicant has amended claims 1 to recite a friction material consisting essentially of:

75 to 85 percent fibers;
5 to 25 percent filler; and
resin.

Applicant also has amended claim 10 to recite a friction material consisting essentially of:

75 to 85 percent fibers;
10 to 35 percent filler; and
resin.

As a result, claim has a resin content of no more than 20 percent and claim 10 has a resin content of no more than 15 percent.

These amendments are not the addition of new matter. Accordingly, Applicant respectfully asks the Examiner to enter the amendments.

Applicant notes with appreciation the Examiner's allowance of claims 2, and 11 – 13 which require a fibrous content of at least 80%, and consequently a resin content of no more than 20%.

In paragraph 12 on page 7, the Examiner concedes that the cited prior art teaches a lower fibrous content than currently claimed. Further, Applicant

respectfully submits that the prior art also teaches a resin content of 25 percent or higher.

Applicant has amended claims 1 and 10 to more clearly point out this patentable distinction in these claims as well.

Claim 1, as amended, now more clearly recites a resin content of no more than 20% and claim 10 as amended more clearly recites a resin content of no more than 15%.

Applicant also notes with appreciation the withdrawal of the 35 U.S.C. §112 rejection.

Applicant respectfully traverses the rejection of claims 1, 3, 7, 9 and 10 patentably distinguish over Lam '416 in the recitation of 75 to 85% fibers; 5 to 25% filler; and no more than 20% resin.

Nowhere do Lam et al. disclose or suggest this combination.

The Examiner argues that Lam '416 teaches a friction material comprising up to about 75% fibrous material in claim 9. Applicant respectfully submits that claim 9 of Lam '416 also teaches a resin content of 25 to 60%.

Clearly, Lam '416 does not disclose what Applicant claims.

Accordingly, Applicant respectfully asks that the Examiner withdraw the rejection under 35 U.S.C. §102.

Applicant respectfully traverses the rejection of claims 1, 3, 7, 9 and 10 are

rejected under 35 U.S.C. §103(a) over USPN 5958507 to Lam et al. in view of USPN 6130176, also to Lam.

Claims 1, 3, 7, 9 and 10 patentably distinguish over Lam '507 and Lam '176 in the recitation of

75 to 85% fibers;

5 to 25% filler; and

no more than 20% resin.

Nowhere do Lam '507 and '176 disclose or suggest this combination.

Lam '507 teaches a resin content ranging from 25 to 60%. Further, Lam '507 is silent with respect to the inclusion of carbon fibers.

Clearly, Lam '507 and '176 have no appreciation for the claimed combination.

Without Applicant's specification for a road map, one would not reach the claimed combination. Clearly, the prior art has no appreciation for the high fibrous content and low resin content Applicant claims. Lam '507 is deficient and Lam '176 does not supply those deficiencies.

Accordingly, Applicant respectfully ask that the Examiner withdraw the rejections under 35 U.S.C. §103.

Applicant respectfully traverse the rejection of claim 4 under 35 U.S.C. §103(a) over USPN 6630416 to Lam, in view of either Derwent Pub-no. RD

406020 or US 6,013,696 to Hill et al.

Applicant also respectfully traverses the rejection of claim 4 under 35 U.S.C. §103(a) over USPN 5958507 to Lam et al., in view of USPN 6130176, also to Lam, in view of either Derwent Pub-no. RD 406020 or US 6,013,696 to Hill et al.

Applicant also respectfully traverses the rejection of claim 5 under 35 U.S.C. §103(a) over US 6630416 to Lam in view of either US 4,997,067 to Watts or US 5,495,922 to Booher.

Applicant also respectfully traverses the rejection of claim 5 under 35 U.S.C. §103(a) over USPN 5958507 to Lam et al., in view of USPN 6130176, also to Lam, in view of either US 4,997,067 to Watts or US 5,495,922 to Booher.

The deficiencies of the Lam references in rendering obvious the instant claims have been discussed above and, for the sake of brevity, will not be further repeated herein.

The Examiner argues that since the Lam references are silent with respect to whether the fibrous base material is woven or non-woven, it is presumed that the detail was omitted with the understanding that it would be implicit to one of ordinary skill in the art that both woven and non-woven materials are included.

Applicant respectfully submits that the Examiner's position is unfounded. The conclusion goes beyond the teachings of the reference.

That the elements might be individually located in various prior art

disclosures cannot automatically lead to a conclusion that the elements ought to be combined in the manner claimed without a showing of motivation in the art in support of the specific combination.

Clearly, the numerous modifications required to sustain the rejection are beyond the teachings of the references.

Accordingly, Applicant respectfully ask that the Examiner withdraw the rejections under 35 U.S.C. §103.

Applicant respectfully traverse the rejection of claims 1 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 21 of U.S. Patent No. 6630416.

Applicant also respectfully traverses the rejection of claims 1, 3, 7, 9 and 10 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10, 11, 12, 14 and 15 of copending Application No.

10/678720.

Applicant's claims patentably distinguish over the cited art in the recitation of 75 to 85 % fibers; 5 to 25% filler; and no more than 20% resin.

As the Examiner points out, the prior art does not teach or suggest a friction material having the high fibrous content. Applicant also respectfully submits that the prior art does not teach a resin content of no more than 20 percent. Clearly the prior art requires at least 25% resin.

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Accordingly, Applicant respectfully ask that the Examiner withdraw the double patenting rejections.

Therefore, Applicant respectfully submits that claims 1 – 5, 7, and 9 – 13 as amended are in condition for allowance and respectfully ask that the Examiner pass the claims to issue.

Respectfully submitted,

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